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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,312	08/03/2000	Brian D. Kruse	10201US01 (EKC 90052)	9288

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PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

EXAMINER

RICHER, AARON M

ART UNIT	PAPER NUMBER
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2628

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/631,312

Applicant(s)

KRUSE ET AL.

Examiner

Aaron M. Richer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7-12,14-28,30,32-37 and 39-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7-12,14-28,30,32-37 and 39-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 3, 5, 7-12, 14-28, 30, 32-37, and 39-63 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 60-63 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, a carrier wave or signal *per se* does not fall into any of the statutory categories of 35 U.S.C. 101. Claims 61 and 63 define a computer readable medium as a "signal", and therefore the claims that recite a computer readable medium containing program code are non-statutory.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1, 3, 5, 7-12, 14-28, 30, 32-37, and 39-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmes (U.S. Patent 6,686,953) in view of Hilliard (U.S. Publication 2002/0080168).

6. As to claims 1, 60 and 62, Holmes discloses a method comprising:
obtaining information characterizing the color response of a display device through a color profiling process that profiles the color response of the display device, wherein the color profiling process includes:

estimating a black point for the display device based on a black point selection by a user of the display device (Holmes col. 4, lines 42-57; fig. 2-3 also show that black point selection by a user is well-known in prior art),

estimating a gamma for the display device based on a gamma selection by the user (col. 14, lines 36-63),

and estimating the gray balance of the display device based on a gray balance selection by the user, and wherein estimating the gray balance comprises displaying a set of gray elements including a gray element identified by the gamma selection and other gray elements that exhibit plus/minus differences in red, green and blue (RGB) relative to the gray element identified by the gamma selection, wherein the gray balance selection by the user is a selection of one of the gray elements in the set of the gray elements (col. 7, lines 27-59; col. 19, lines 23-54; the gray balance correction is a visual comparison of color, i.e. gray elements with

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different plus/minus differences; also see further description of the gray balance method from col. 14-col. 21);

modifying a color image based on the information to improve the accuracy of the color image when displayed on the display device (col. 4, lines 42-57);

Holmes does not disclose that the image is associated with a client residing on a computer network nor does Holmes disclose delivering the modified color image to the client via the computer network for display on the display device. Hilliard, however, discloses a color correction server that delivers modified correction information to clients via a computer network (p. 1, section 0034). The motivation for this is to improve color correction in a system by using user-specific information (p. 1, section 0034). It would have been obvious to one skilled in the art to modify Holmes to deliver color correction information over a network in order to customize color correction information for each user as taught by Hilliard. Further, note that Hilliard also discloses a user calibration of gamma and black point, suggesting that both Holmes and Hilliard are analogous art (p. 11, section 0154-p. 12, section 0155).

7. As to claims 3 and 28, Hilliard discloses guiding a client through a color profiling process by delivering a series of instructional web pages to the client (p. 7, sections 0117-0118; p. 8, section 0125-p. 9, section 0128; p. 10, sections 0133 and 0136)

8. As to claims 5 and 30, Holmes discloses estimating a gamma for the color response of the each of the red, green, and blue color channels associated with the display device (col. 14, lines 36-63).

9. As to claims 7 and 32, Holmes discloses:

estimating a coarse gamma for the display device;

estimating a fine gamma for the display device based in part on the coarse gamma;

and generating a color profile based on the black point, the coarse gamma, the fine gamma, and the gray balance (see description of gray balance method one and two from col. 14-col. 21).

10. As to claims 8, 33, and 53, Hilliard discloses:

displaying a first range of gray elements on the display device;

setting the contrast of the display device to maximum;

setting the brightness of the display device to maximum;

reducing the brightness of the display device until the darkest of the gray elements is barely visible;

and selecting the gray element that is barely visible (p. 12, section 0165; p. 13, section 0181-p. 14, section 0186).

11. As to claims 9-12, 34-37, and 54-56, Hilliard discloses similar dithered backgrounds and gamma estimations (p. 14, section 0186-0187).

12. As to claims 14 and 39, Hilliard discloses guiding the client through the color profiling process by delivering a series of instructional web pages to the client, obtaining the information by generating a web cookie based on results of the color profiling process; and transmitting the web cookie to a remote server in the computer network (see rejection to claim 3 and also p. 3, sections 0053-0065).

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13. As to claims 15 and 40, Hilliard discloses a remote server that modifies a color image based on the information (p. 3, sections 0054-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

14. As to claims 16 and 41, Hilliard discloses a remote server that delivers a modified color image to a client (p. 3, sections 0054-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

15. As to claim 17, Hilliard discloses transmitting the information to a remote server in the computer network, the remote server modifying the images based on the information (p. 3, sections 0054-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

16. As to claim 18, Hilliard discloses transmitting the information to a plurality of remote servers in the computer network, and modifying a plurality of color images based on the information, wherein each of the remote servers modifies and delivers at least one of the color images to the client (see fig. 21 and p. 3, sections 0054-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

17. As to claim 19, Hilliard discloses obtaining the information by obtaining information characterizing the color responses of a plurality of display devices associated with a plurality of clients residing on the computer network (fig. 11).

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18. As to claim 20, Hilliard discloses a color image that forms part of content received by the client from a remote server (p. 3, sections 0054-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

19. As to claims 21 and 43, Hilliard discloses a method wherein the computer network is the world wide web, and the color image forms part of a web page received by the client from a web server residing on the computer network (p. 2, sections 0036-0038).

20. As to claim 22, Hilliard discloses a method wherein the color image includes a plurality of color images stored on image servers residing on the computer network, and the color images form parts of web pages received by the client from web servers residing on the computer network, the image servers and web servers being distinct from one another (see fig. 1, fig. 3, and fig. 11).

21. As to claim 23, Hilliard discloses modifying color images before transmitting them to the client (p. 3, section 0065).

22. As to claim 24, Hilliard discloses:

transmitting a web page from a web server to the client, wherein the web page includes an image tag identifying the color image on a color image server residing on the computer network;

transmitting the information as part of a web cookie to the color image server, wherein the color image server modifies the color image based on the information;

and transmitting the color image from the color image server to the client (p. 3, sections 0054-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

23. As to claim 25, Hilliard discloses:

transmitting a first web page from a color profile server to the client, the web page guiding the client through a color profiling process to obtain the information;

transmitting a second web page from a web server to the client, wherein the web page includes an image tag identifying the color image on a color image server residing on the network;

transmitting the information as part of a web cookie to the color image server, wherein the color image server modifies the color image based on the information;

and transmitting the color image from the color image server to the client (p. 3, sections 0054-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

24. As to claims 26 and 48, see the rejections of claim 1 and 22.

25. As to claims 27 and 42, Hilliard discloses a system wherein the one or more color correction modules include a plurality of color correction modules, each of the color correction modules being resident with one of the color image servers on the network (see abstract, fig. 1-8 and fig. 20-21).

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26. As to claim 44, see the rejections to claims 1 and 25.

27. As to claims 45 and 49, Hilliard discloses obtaining information by guiding a client through a color profiling process that profiles the color response of the display device, the color profiling process including delivery of a series of interactive, instructional pages to the client, wherein completion of the color profiling process requires no more than four clicks with a pointing device operated by a user associated with the client (p. 2, section 0042; p. 16, section 0210).

28. As to claims 46 and 50, Hilliard discloses a profiler cookie written to a client by a first server that obtains the information, and a subscriber cookie written to the client by a color image server that delivers the modified color image (p. 3, sections 0053-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

29. As to claims 47 and 51, Hilliard discloses transferring at least some of the contents of the profiler cookie to the color image server, whereby the color image server writes the subscriber cookie to the client, the subscriber cookie being thereafter transferred to the color image server when the client requests delivery of images from the color image server (p. 3, sections 0053-0056 and sections 0064-0065, p. 4, section 0073; p. 7, sections 0117-0118, p. 8, section 0125-p. 9 section 0128, p. 10, sections 0133 and 0136).

30. As to claim 52, see the rejections to claims 1 and 7.

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31. As to claims 57 and 58, Hilliard discloses that the fourth/third range of gray elements is represented centrally within a two dimensional array of the gray elements (p. 6, section 113-p. 7, section 114; p. 11, section 151-p. 12, section 155)

32. As to claim 59, Hilliard discloses using coarse gamma as a starting point for estimating fine gamma and using fine gamma as a starting point for estimating gray balance (p. 6 section 113-p. 7, section 114; p. 11, section 151-p. 12, section 155; p. 14, sections 186-187)

33. As to claims 61 and 63, Hilliard discloses program code contained in physical data storage media and signals transmitted between the client computer and other resources on the computer network (see fig. 1, fig. 3-5, and fig. 11).

Conclusion

34. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

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the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Richer whose telephone number is (571) 272-7790. The examiner can normally be reached on weekdays from 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMR
6/22/06



Kee M. Tung
Primary Examiner